

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Kenneth Cohen, Assistant Town Administrator/797-1030

PREPARED BY: William W. Ackerman, CPA, Budget & Finance Director

SUBJECT: Ordinance

AFFECTED DISTRICT: N/A

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: RETIREMENT PLAN AMENDMENT - AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE RETIREMENT PLAN AND TRUST FOR MANAGEMENT AND GENERAL EMPLOYEES; AMENDING THE DEFINITION OF MANAGEMENT EMPLOYEE TO PERMIT THE FIRE CHIEF OR POLICE CHIEF TO TRANSFER SERVICE FROM THE POLICE OR FIRE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE. {Approved on First Reading June 4, 2008. The vote was as follows: Mayor Truex - yes; Vice Mayor Luis - absent; Councilmember Starkey - yes; Councilmember Caletka - no; Councilmember Crowley - yes}

REPORT IN BRIEF: The attached ordinance will give any firefighter or police officer who is promoted to the rank of Davie Fire Chief or Police Chief to have the option to transfer the accrued actuarial present value of their firefighter or police pension benefit to the Town's Retirement Plan and Trust Fund for Management and General Employees prior to separation from service. Following the transfer of funds from the respective public safety plan, the Fire or Police Chief shall receive credited service in the Management Plan corresponding to the credited service surrendered from the public safety plan. Any election made by the Fire Chief or Police Chief to transfer into the Management Plan shall be made in writing and shall acknowledge that the transfer results in the surrender of all rights and benefits under the Firefighter or Police plans.

PREVIOUS ACTIONS: Town Council previously amended the plan document via Ordinance number 2007-01 on January 3, 2007.

CONCURRENCES: The attached ordinance has been forwarded to the Town's pension attorney for review.

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): Motion to approve the ordinance

Attachment(s): Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE RETIREMENT PLAN AND TRUST FOR MANAGEMENT AND GENERAL EMPLOYEES; AMENDING THE DEFINITION OF MANAGEMENT EMPLOYEE TO PERMIT THE FIRE CHIEF OR POLICE CHIEF TO TRANSFER SERVICE FROM THE POLICE OR FIRE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town recently established the Retirement Plan and Trust for Management and General Employees;

WHEREAS, the Management and General Employee plan defines management employee as including the police and fire chiefs;

WHEREAS, deputy police and fire chiefs are required by state law to be members of the appropriate Chapter 175 and 185 police and firefighter pension plans, but the Fire Chief and Police Chief are not; and

WHEREAS, allowing the Fire Chief and Police Chief to elect to join the Management Plan is permitted by Chapters 175 and 185.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, THAT:

Section 1: Section 1.18.1 of the Retirement Plan and Trust for the Management and General Employees of the Town of Davie is hereby amended to read as follows:

ARTICLE 1. Definitions.

1.18.1 “Management Employee”:

shall mean town administrator, assistance or deputy town administrator, directors, the police and fire chief, town clerk, deputy or assistance town clerk, redevelopment administrator and deputy or assistant directors.

Any deputy or assistant fire chief or police chief who was placed into the Retirement Plan and Trust for Management and General Employees (hereinafter “Continued Public Safety Officers”) prior to December 31, 2005 shall have their rights preserved in the Management and General Employee Plan. Following the adoption of this ordinance, service credit for Continued Public Safety Officers shall be computed and provided to the Town of Davie Firefighter Pension Plan and Police Pension Plan, as

appropriate. The Town of Davie Firefighter Pension Plan and Police Plan, as appropriate, shall award service credit to Continued Public Safety Officers based on all service earned under the Management and General Employee Plan as a public safety officer.

Although Continued Public Safety Officers shall be permitted to remain members of the Retirement Plan and Trust for Management and General Employees, benefits received from the Management and General Employees Plan shall be offset against benefits paid under the Firefighter or Police Plan. If a Continued Public Safety Officer vests in the Retirement Plan and Trust for Management and General Employees but fails to vest in the Firefighter or Police Plan, the Continued Public Safety Officer shall receive full benefits from the Retirement Plan and Trust for Management and General Employees. Under no circumstances shall a Continued Public Safety Officer receive duplication of benefits.

OPTIONAL TRANSFER RIGHTS OF POLICE OR FIRE CHIEF: Any firefighter or police officer who is promoted to the rank of Davie Fire Chief or Police Chief shall have the option, pursuant to Sections 175.032(8) and 185.02(11), Fla.Stat., to transfer the accrued actuarial present value of their firefighter or police pension benefit to the Town's Retirement Plan and Trust Fund for Management and General Employees (the "Management Plan") prior to separation from service. Following the transfer of funds from the respective public safety plan, the Fire or Police Chief shall receive credited service in the Management Plan corresponding to the credited service surrendered from the public safety plan. Any election by the Fire Chief or Police Chief to transfer into the Management Plan shall be made in writing and shall acknowledge that the transfer results in the surrender of all rights and benefits under the Firefighter or Police plans.

Section 2: If any clause, section, or other part or application of this Ordinance shall be held in any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and shall not affect the validity of the remaining portions or applications which shall remain in full force and effect.

Section 3: All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: This Ordinance shall become effective as of _____, 2008.

PASSED ON FIRST READING THIS _____ day of _____, 2008.

PASSED ON SECOND READING THIS _____ day of _____, 2008.

Mayor/Councilmember

Attest:

Town Clerk

APPROVED THIS _____ DAY OF _____, 2008

Coding: Words in stricken type are deletions from existing text.
Words in underline type are additions.